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November 13, 2007

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *In the Matter of Petitions of the Verizon Telephone Companies for
Forbearance Pursuant to 47 U.S.C. Section 160(c) in the Boston, New
York, Philadelphia, Pittsburgh, Providence and Virginia Beach
Metropolitan Statistical Areas, WC Docket No. 06-172*

Dear Ms. Dortch:

The undersigned carriers, by their counsel, submit this *ex parte* letter in the above-referenced proceeding to respond to Verizon's recent unfounded attack on the completeness and reliability of the GeoResults data submitted in this proceeding.¹ Verizon, apparently realizing at the eleventh hour that the record does not support its contention that sufficient facilities-based competition exists in any of the relevant Metropolitan Statistical Areas ("MSAs") to warrant forbearance from Section 251(c)(3) unbundling obligations, has begun to grasp at straws and question the accuracy of market data routinely relied upon by the entire telecommunications industry as well as state and federal regulators. The Commission should summarily dismiss Verizon's last-ditch effort to cast doubt on GeoResults data that is regularly accepted as evidence of the nature and extent of competitive activity in domestic telecommunications markets.

¹ See Letter from Joseph Jackson, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 06-172 (filed Nov. 6, 2007) ("*Verizon Nov. 6th Ex Parte*"), at 2-3.

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In its Nov. 6th *Ex Parte*, Verizon claims that GeoResults data is “incomplete” and understates the extent of competitive facilities deployment.² With respect to CLEC-Lit buildings, Verizon contends that the GeoResults data “understate the number of buildings with competitive alternatives” because it is dependent on public sources and submissions by carriers themselves.³ These criticisms of GeoResults as a data source are puffs of smoke that Verizon is desperately blowing to divert the Commission from the fact that GeoResults has been used for years as a reliable, independent source of competitive market data by incumbents and competitors alike in various regulatory forums.

Verizon and other incumbent local exchange carriers (“ILECs”) have submitted GeoResults data in numerous Commission proceedings, and the Commission has relied upon that data time and again in forming its conclusions. For example, both SBC and Verizon submitted GeoResults data in the *Triennial Review Proceeding* to show the presence of facilities-based competition.⁴ Verizon filed GeoResults data in that proceeding to show buildings lit by its competitors’ fiber networks, and it characterized GeoResults as “a source that is generally relied upon in the industry...”⁵ Indeed, Verizon urged the Commission not to ignore the GeoResults data.⁶ In the same proceeding, SBC engaged GeoResults to obtain information on the buildings lit by competitive fiber networks, noting that the company’s clients include “American Fiber Systems, Cox Enterprises, Global Crossing, Lucent, RCN, Time Warner Telecom, SBC and other incumbent local exchange carriers, who can use the information contained in GeoResults’s database to develop transport and fiber route deployment strategies, avoid stranded investment, and focus sales and marketing efforts.”⁷ In the *Triennial Review Order*, as well as in other

² *Id.*, at 3.

³ *Id.*, at 13.

⁴ See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) (“*Triennial Review Order*”), corrected by Errata, 18 FCC Rcd 19020 (2003) (*Triennial Review Order Errata*), vacated and remanded in part, affirmed in part, *United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*) cert. denied, 125 S. Ct. 313 (2004).

⁵ See Letter from Michael Glover, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-338, 96-98 and 98-147 (filed Jul. 2, 2004) (“*Verizon July 2nd Ex Parte*”), attached White Paper at 13.

⁶ *Id.*, at 2.

⁷ See Letter from Christopher Heimann, SBC, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-338, 96-98 and 98-147 (filed Aug. 18, 2004) (“*SBC August 18th Ex Parte*”), at 3. SBC noted that “GeoResults has painstakingly reviewed and analyzed the Telecordia databases to compile its listing of competitively lit buildings.”

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proceedings such at the AT&T/SBC merger⁸ and the *Triennial Review Remand Order*,⁹ the Commission has relied on GeoResults data as accurate and the best available in making its rulings on the state of competition. Moreover, use of GeoResults data was endorsed by the U.S. Government Accountability Office (“GAO”) in a recent report addressing the extent of competition in special access services.¹⁰

The ILECs also have relied on GeoResults data in various state proceedings to show facilities-based competition. For example, BellSouth submitted GeoResults data in the Alabama Public Service Commission proceeding to implement the Commission’s *Triennial Review Order*.¹¹ Specifically, BellSouth “relied on information from the GeoLIT™ Plus Report to determine where [carriers have] deployed loops.”¹² Similarly, SBC relied on GeoResults data in supplying testimony to the Michigan Public Service Commission with respect to the availability of competitive facilities.¹³ In alleging the existence of several competing providers and competitive fiber routes in the Detroit metropolitan area, SBC used GeoResults data to prepare its maps.¹⁴ Given that the use of GeoResults data by the industry and the Commission is well-established, it is hard to fathom why Verizon is questioning its use in this proceeding. The only possible reason is that Verizon is facing the reality that the facts are not working in its favor and do not support a grant of forbearance.

⁸ See *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662 (2007).

⁹ See *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, 20 FCC Rcd 2533 (2005) (“*Triennial Review Remand Order*”).

¹⁰ See *FCC Needs to Improve its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services*, Report to the Chairman, Committee on Government Reform, House of Representatives, United States Government Accountability Office, Nov. 2006 (“*GAO Report*”).

¹¹ See BellSouth Telecommunications, Inc., Direct Testimony of Shelley W. Padgett before the Alabama Public Service Commission, Docket No. 29054, Phase III (Mar. 5, 2004).

¹² *Id.*, at 11. The GeoLIT Plus Report from GeoResults, Inc., lists buildings that contain fiber-based equipment together with the names of the carriers that own the equipment.

¹³ See Direct Testimony of Scott J. Alexander on Behalf of SBC Michigan Regarding Dedicated Transport before the Michigan Public Service Commission, Case No. U-13796 (Dec. 19, 2003). SBC also relied on GeoResults data to show loop deployment in testimony before the Texas Public Utility Commission. See Testimony of J. Gary Smith, Docket No. 28745, Texas Public Utility Commission, Joint CLEC, Request No. 1-1 (Dec. 4, 2003).

¹⁴ *Id.*, at 9, n. 6.

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Verizon suggests that competitive local exchange carriers (“CLECs”) have used GeoResults data, rather than provide their own primary sources, because they are aware that the GeoResults data do not provide a complete picture of competition.¹⁵ This suggestion is simply false. XO has submitted evidence illustrating the accuracy of GeoResults data. In an *ex parte* letter dated October 30, 2007, XO provided evidence confirming that GeoResults data is better than 90% accurate.¹⁶ The *XO Oct. 30th Ex Parte* provides meaningful evidence that GeoResults data is accurate and reliable and mirrors the individual CLECs’ primary source data. Moreover, as indicated below, the GeoResults data includes the activities of virtually every major CLEC, thus providing the Commission with the very competitive sector-wide data Verizon claims is missing from the record.¹⁷

The undersigned parties emphasize that GeoResults data on competitive presence in commercial buildings is derived directly from Telcordia’s Location Registry database, which is a hosted database of network locations and related network functions for the entire telecommunications industry.¹⁸ This database is unique in the industry and its use is almost essential. Telecommunications providers rely on the database to ensure that traffic is routed among the many providers to the proper equipment.¹⁹ In addition, for each service provider, use of the database facilitates network and service management and increases operational efficiency. It is for that reason that the database is used by over 160 telecommunications providers worldwide – *including 28 of the top 30 CLECs* – and over 850 equipment vendors to ensure the proper routing of traffic among different providers.²⁰ The only providers not subscribing to the database are very small providers who generally rely on larger providers to enter their

¹⁵ *Id.*, at 3.

¹⁶ See Letter from John Heitmann, Counsel to XO Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission,, WC Docket No. 06-172 (filed Oct. 30, 2007) (“*XO Oct. 30th Ex Parte*”), at 5. Covad Communications Group does not have any lit buildings in any of the six MSAs for which Verizon is seeking forbearance.

¹⁷ If Verizon’s position is that the Commission must always rely only on primary source data, as the party with the burden of proof in this proceeding, Verizon had the responsibility to request that the Commission survey the entire competitive community. Verizon should have made that request many months ago, not less than one month before expiration of the statutory deadline on its Petitions. It is much too late in the game for Verizon to now engage in second-guessing regarding “best-available” data sources.

¹⁸ Telcordia is a leading global provider of telecommunications network software and services. For a more detailed explanation of Telcordia’s database and GeoResults’s building analysis, see *GAO Report*, at 50-53.

¹⁹ See Telcordia, Systems and Tools at <https://codecenter.commonlanguage.com/systems.asp?>

²⁰ See Telcordia, COMMON LANGUAGE® Products: General FAQs at <http://www.commonlanguage.com/resources/commonlang/overview/faqs/index.html>.

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information, or private network providers, who are not offering their services to the public. In addition, the database does not include customer premises equipment and so could not be used to indicate the presence of over-the-top VoIP providers. However, since these providers are not facilities-based, the absence of this information does not have any impact on the Commission's determination.

Each provider is responsible for populating the Telcordia Location Registry database with facilities information, including terminal equipment placed in buildings. As stated above, if the equipment is not properly entered, traffic will not be routed to it. This natural incentive ensures that in-service equipment is accurately entered and maintained – and it ensures that carrier presence is not undercounted (contrary to Verizon's claims). If anything, there is a greater likelihood of *overcounting* the presence of competitive providers because there is no significant penalty for failing to remove equipment from the database.²¹ Thus, GeoResults data is a reliable (if not exaggerated) indicator of the presence of competitive providers as a whole in commercial buildings.

In sum, the undersigned parties urge the Commission not to be swayed by Verizon's unfounded effort to cast doubt on the reliability of GeoResults data as an accurate and reliable indicator of competition in the enterprise market.

Respectfully submitted,



Genevieve Morelli

*Counsel to Covad Communications Group
and XO Communications, LLC*

²¹ See GAO Report, at 51-52. Because ILECs operate and maintain terminal equipment in virtually every building as a result of their status as an “incumbent” with the vast majority of customers, the over-counting problem typically does not affect them.